



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 110

Docket Number USCG-2015-0825

RIN 1625-AA01

Anchorage Regulations, Delaware River; Philadelphia, PA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

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**SUMMARY:** The Coast Guard proposes to amend the geographic coordinates and modify the regulated use of anchorage “10” in the Delaware River in the vicinity of the Navy Yard in Philadelphia, Pennsylvania. The proposed change would alter the size and use of the anchorage, reducing the anchorage in size and allowing the anchorage to be used as a general anchorage in the Delaware River. We invite your comments on this proposed rulemaking.

**DATES:** Comments and related material must be received by the Coast Guard on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]

**ADDRESSES:** You may submit comments identified by docket number USCG-2015-0825 using the Federal eRulemaking Portal at <http://www.regulations.gov>. See the “Public Participation and Request for Comments” portion of the SUPPLEMENTARY INFORMATION section for further instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** If you have questions about this proposed rulemaking, call or email Lieutenant Brennan Dougherty, U.S. Coast Guard, Sector Delaware Bay, Chief Waterways Management Division, Coast Guard; telephone (215)271-4851, e-mail Brennan.P.Dougherty@uscg.mil.

**SUPPLEMENTARY INFORMATION:**

**I. Table of Abbreviations**

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
E.O.	Executive order
FR	<i><b>Federal Register</b></i>
NPRM	Notice of proposed rulemaking
Pub. L.	Public Law
§	Section
U.S.C.	United States Code
COTP	Captain of the Port

**II. Background, Purpose, and Legal Basis**

The legal basis for this rule is: 33 U.S.C. 471, 1221 through 1236, 2071; 33 CFR 1.05-1; and Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to define anchorage grounds.

On December, 12, 1967, the Coast Guard Fifth District published a final rule establishing an anchorage area on the Delaware River in Philadelphia, Pennsylvania in the *Federal Register* (32 FR 17726, 17749). The anchorage area established is contained in 33 CFR 110.157(a)(11). This proposed rule would change the shape and the dimensions of anchorage “10”, and remove the “restricted naval anchorage” verbiage from the regulation. The anchorage currently remains unused by the Naval Yard. Removing the restrictions on anchorage “10” would alleviate congestion within the port, allowing the anchorage to be used as a general anchorage for commercial traffic.

### **III. Discussion of Proposed Rule**

The new anchorage area would encompass all waters of the Delaware River on the north side of the channel along West Horseshoe Range, bounded as follows: Beginning off of the southeasterly corner of Pier 1 at 39°53'07"N, 075°10'30"W, thence south to the to the north edge of the channel along West Horseshoe Range to 39°52'58"N, 075°10'29"W, thence east along the edge of the channel to 39°52'56"N, 075°09'53"W, thence north to 39°53'07"N, 075°09'54"W, thence continuing west to the beginning point at 39°53'07"N, 075°10'30"W. Additionally, the restrictions on the use of the anchorage will be removed, permitting all vessels to anchor within its bounds. The regulatory text we are proposing appears at the end of this document.

### **IV. Regulatory Analyses**

We developed this proposed rule after considering numerous statutes and executive orders (E.O.s) related to rulemaking. Below we summarize our analyses based on a number of these statutes and E.O.s, and we discuss First Amendment rights of protestors.

#### **A. Regulatory Planning and Review**

E.O.s 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This NPRM has not been designated a “significant regulatory action,” under E.O. 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget.

This proposed rule is not a significant regulatory action because it will not interfere with existing maritime activity on the Delaware River. Moreover, it is enhancing navigational safety along the Delaware River by providing an additional anchorage for commercial and recreational

vessels. The proposed anchorage maintains the same parallel distance along the channel boundaries as the existing anchorage. The impacts to navigational safety are expected to be minimal because the proposed anchorage area would not unnecessarily restrict traffic, as it is located outside of the established navigation channel. Vessels may navigate in, around, and through the proposed anchorage.

#### B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

For the reasons stated in paragraph IV.A, this proposed rule would not have a significant economic impact on a substantial number of small entities. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see ADDRESSES) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in

the FOR FURTHER INFORMATION CONTACT section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

#### C. Collection of Information

This proposed rule would not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

#### D. Federalism and Indian Tribal Governments

A rule has implications for federalism under E.O. 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in E.O. 13132.

Also, this proposed rule does not have tribal implications under E.O. 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this proposed rule has implications for federalism or Indian tribes, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section above.

#### E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act

addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### F. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969(42 U.S.C. 4321-4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves the alteration of the size and use of anchorage “10,” restricted Naval Anchorage. It is categorically excluded from further review under paragraph 34(f) of Figure 2-1 of Commandant Instruction M16475.ID. A preliminary environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

#### G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the FOR FURTHER INFORMATION CONTACT section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

### **V. Public Participation and Request for Comments**

We view public participation as essential to effective rulemaking, and will consider all

comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at <http://www.regulations.gov>. If your material cannot be submitted using <http://www.regulations.gov>, contact the person in the FOR FURTHER INFORMATION CONTACT section of this document for alternate instructions. Documents mentioned in this NPRM, and all public comments, will be in our online docket at <http://www.regulations.gov> and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

We accept anonymous comments. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided. For more about privacy and the docket, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the Federal Register (70 FR 15086).

### **List of Subjects in 33 CFR Part 110**

#### **Anchorage Grounds**

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 110 as follows:

#### **PART 11--ANCHORAGE REGULATIONS**

1. The authority citation for part 110 continues to read as follows:

**Authority:** 33 U.S.C. 471, 1221 through 1236, 2071; 33 CFR 1.05-1; Department of

Homeland Security Delegation No. 0170.1.

2. In § 110.157, revise paragraph (a)(11) to read as follows:

**§ 110.157 Delaware Bay and River.**

(a) \* \* \*

(11) *Anchorage 10 at Naval Base, Philadelphia.* On the north side of the channel along West Horseshoe Range, bounded as follows: Beginning off of the southeasterly corner of Pier 1 at 39°53'07N, 075°10'30W, thence south to the to the north edge of the channel along West Horseshoe Range to 39°52'58"N, 075°10'29"W, thence east along the edge of the channel to 39°52'56"N, 075°09'53"W, thence north to 39°53'07"N, 075°09'54"W, thence continuing west to the beginning point at 39°53'07N, 075°10'30W.

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Dated: December 17, 2015.

STEPHEN P. METRUCK,

Admiral, U.S. Coast Guard,

Commander, Fifth Coast Guard District.

[FR Doc. 2015-33167 Filed: 1/4/2016 8:45 am; Publication Date: 1/5/2016]